

#110

Zoning Case No C14 2007 0087

RESTRICTIVE COVENANT

OWNER Austin Ly and Nguyen L P a Texas limited partnership

ADDRESS 8115 Altoga Drive Austin, Texas 78724

CONSIDERATION Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the City of Austin to the Owner the receipt and sufficiency of which is acknowledged

PROPERTY An 18 97 acre tract of land more or less out of the Alexander Walters Survey No 67 Travis County the tract of land being more particularly described by metes and bounds in Exhibit A incorporated into this covenant

WHEREAS the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions

NOW THEREFORE it is declared that the Owner of the Property for the consideration shall hold sell and convey the Property subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant These covenants and restrictions shall run with the land and shall be binding on the Owner of the Property its heirs successors and assigns

- 1 A site plan or building permit for the Property may not be approved released or issued if the completed development or uses of the Property considered cumulatively with all existing or previously authorized development and uses generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ( TIA ) prepared by Robert J Halls & Associates dated June 30 2007 or as amended and approved by the Director of the Watershed Protection and Development Review Department ( Director ) All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated October 12 2007, and attached as Exhibit B to this covenant The TIA shall be kept on file at the Watershed Protection and Development Review Department
- 2 A six foot wood privacy fence with masonry columns shall be provided along the north and east property lines
- 3 Prior to site plan approval two 25 foot wide public access easements shall be provided between the terminus of Josh Ridge Boulevard and Harris Ridge Boulevard to provide two access points to Harris Ridge Boulevard Parking is prohibited along the entirety of the access easements unless otherwise approved by the Director
- 4 If any person or entity shall violate or attempt to violate this agreement and covenant it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant to prevent the person or entity from such actions and to collect damages for such actions

- 5 If any part of this agreement or covenant is declared invalid by judgment or court order the same shall in no way affect any of the other provisions of this agreement and such remaining portion of this agreement shall remain in full effect
- 6 If at any time the City of Austin fails to enforce this agreement whether or not any violations of it are known such failure shall not constitute a waiver or estoppel of the right to enforce it
- 7 This agreement may be modified amended or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin and (b) by the owner(s) of the Property subject to the modification amendment or termination at the time of such modification amendment or termination

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_ 2007

**OWNER**

**Austin Ly and Nguyen L P ,  
a Texas limited partnership**

By Ly and Nguyen Partners LLC  
a Texas limited liability company  
its General Partner

By \_\_\_\_\_  
Kevin Nguyen  
its Managing Member

By \_\_\_\_\_  
Trung Nguyen  
its Managing Member

APPROVED AS TO FORM

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS** §

**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_ 2007 by Kevin Nguyen Managing Member of Ly and Nguyen Partners LLC a Texas limited liability company General Partner of Austin Ly and Nguyen LP a Texas limited partnership on behalf of the limited liability company and the limited partnership

\_\_\_\_\_  
Notary Public State of Texas

**THE STATE OF TEXAS** §

**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_ 2007 by Trung Nguyen Managing Member of Ly and Nguyen Partners LLC a Texas limited liability company General Partner of Austin Ly and Nguyen LP a Texas limited partnership on behalf of the limited liability company and the limited partnership

\_\_\_\_\_  
Notary Public State of Texas

After Recording Please Return to  
City of Austin  
Department of Law  
P O Box 1088  
Austin Texas 78767  
Attention Diana Minter Paralegal

**AMENDMENT OF RESTRICTIVE COVENANT**  
**FOR**  
**ZONING CASE NO C14 95 0183**

Owner Austin Ly and Nguyen LP a Texas limited partnership

Address 8115 Altoga Drive Austin Texas 78724

City The City of Austin, a home-rule city municipal corporation and political subdivision of the State of Texas in Travis County Texas

City Council The City Council of the City of Austin

Consideration Ten and No/100 Dollars (\$10 00) and other good and valuable consideration paid by the Owner to the City of Austin the receipt and sufficiency of which is acknowledged

WHEREAS Ridge Investors Limited a Texas limited partnership as owner of all that certain property described in Zoning File No C14 95 0183 consisting of approximately 130 acres of land (the Original Property ) as more particularly described in the restrictive covenant recorded in the Real Property Records of Travis County Texas in Volume 12792 Page 739 (the Restrictive Covenant ) imposed certain restrictions and covenants on the Original Property by the Restrictive Covenant of record

WHEREAS the Restrictive Covenant provided that the covenant could be modified amended or terminated by joint action of both (a) a majority of the members of the City Council and (b) the Owner of the property at the time of such modification amendment or termination

WHEREAS Austin Ly and Nguyen LP a Texas limited partnership is the current owner (the Owner ) of approximately 18.9 acres of the property being more particularly described by metes and bounds in Exhibit A incorporated into this covenant (the Property ) on the date of this Amendment of Restrictive Covenant (the Amendment ) and desires to amend the Restrictive Covenant only as to the Property

WHEREAS the Original Property was subject to recommendations contained in a memorandum ("Memorandum ") dated September 16 1996 from the Transportation Review Section of the Department of Review and Inspection (now known as the Watershed Protection and Development Review Department) and made a part of the Restrictive Covenant

WHEREAS the Owner desires to amend a part of the Memorandum as it affects its Property

WHEREAS the City Council and the Owner agree the Restrictive Covenant should be amended

NOW THEREFORE for and in consideration of the premises and mutual promises covenants and agreement hereinafter set forth the City of Austin and the Owner agree as follows

- 1 The Property is not subject to the recommendations under Paragraph No 3, Sections A F and G of the Memorandum dated September 16 1996
- 2 Except as expressly provided for in this Amendment each and every one of the terms conditions and provisions of the Restrictive Covenant as set forth in the Restrictive Covenant shall continue in full force and effect on and after the effective date of this Amendment
- 3 The City Manager or her designee shall execute on behalf of the City this Amendment of Restrictive Covenant for Zoning File No C14-95 0183 as authorized by the City Council of the City of Austin The Amendment of Restrictive Covenant shall be filed in the Official Public Records of Travis County Texas

EXECUTED to be effective the \_\_\_\_\_ day of \_\_\_\_\_ 2007

**OWNER**

**Austin Ly and Nguyen L P ,  
a Texas limited partnership**

By Ly and Nguyen Partners LLC  
a Texas limited liability company  
its General Partner

By \_\_\_\_\_  
Kevin Nguyen  
its Managing Member

By \_\_\_\_\_  
Trung Nguyen  
its Managing Member

**CITY OF AUSTIN**

By \_\_\_\_\_  
**Laura J Huffman,**  
**Assistant City Manager,**  
**City of Austin**

**THE STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_  
2007 by Kevin Nguyen Managing Member of Ly and Nguyen Partners LLC a Texas limited  
liability company General Partner of Austin Ly and Nguyen LP a Texas limited partnership  
on behalf of the limited liability company and the limited partnership

\_\_\_\_\_  
Notary Public State of Texas

**THE STATE OF TEXAS** §  
**COUNTY OF TRAVIS** §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_  
2007 by Trung Nguyen Managing Member of Ly and Nguyen Partners LLC a Texas limited  
liability company General Partner of Austin Ly and Nguyen LP a Texas limited partnership  
on behalf of the limited liability company and the limited partnership

\_\_\_\_\_  
Notary Public State of Texas

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

This instrument was acknowledged before me on this the \_\_\_\_\_ day of \_\_\_\_\_ 2007 by Laura J Huffman as Assistant City Manager of the City of Austin a municipal corporation on behalf of said municipal corporation

\_\_\_\_\_  
Notary Public State of Texas

AFTER RECORDING RETURN TO

City of Austin Law Department  
P O Box 1088  
Austin Texas 78767  
Attn Diana Minter Paralegal